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16158.0023

June 29, 2001

RECEIVED  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW  
Washington, D.C. 20554

NOTICE OF EX PARTE  
PRESENTATION

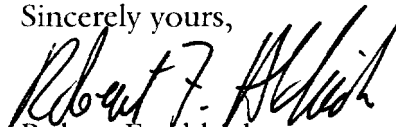
Re: CC Docket No. 96-128 (remand of inmate service issues)

Dear Ms. Salas:

On June 29, 2001, Vince Townsend of Pay-Tel Communications, Inc., Michelle Barnard of Odyssey International, and Robert F. Aldrich of this law firm, representing the Inmate Calling Service Providers Coalition, met with Glenn Reynolds, Associate Chief of the Common Carrier Bureau, and Tamara Preiss and Adam Candeub of the Bureau's Competitive Pricing Division.

We discussed the proceeding regarding inmate calling services on remand from the United States Court of Appeals for the D.C. Circuit. The points discussed are summarized on the enclosed documents which were handed out at the meeting.

Sincerely yours,

  
Robert F. Aldrich

RFA/nw  
Enclosures

cc: Glenn Reynolds  
Tamara Preiss  
Adam Candeub

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**RECEIVED**  
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Glenn Reynolds  
Associate Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., SW, Room 5-A847  
Washington, D.C. 20554

**Re: CC Docket No. 96-128 (remand of inmate service issues)**

Dear Mr. Reynolds:

The Inmate Calling Service Providers Coalition submits the following analysis of issues raised in our earlier meetings regarding a "short term approach" to the inmate service compensation issue under Section 276 of the Act. The Coalition continues to believe that, in order to provide for fair compensation for inmate telephone service under Section 276 of the Act, the Commission should allow service providers to justify cost-based rates on local and/or intraLATA calls in those states with unusually low rate ceilings for these calls. However, the Coalition also believes that, by clarifying that the Commission's deregulation of local coin rates also applies to the local calling element of local inmate collect calls, the Commission would provide important short-term, partial relief pending a more comprehensive resolution of the issue. At last week's meetings, the staff raised questions regarding (1) the consistency of this approach with the earlier dial-around cases and (2) the possibility of provider abuse. These points are addressed below.

### **Summary of Short Term Approach**

As discussed in the ex parte material submitted by the Coalition June 22, 2001, the rate for local inmate collect calls (as well as the rate for other local collect calls) is capped in most states, with independent service providers required to follow the rate specified in local exchange carrier ("LEC") tariffs. In the vast majority of states, the local collect call rate is composed of two rate elements: an operator surcharge and a local calling rate element. Prior to 1997, in almost all states the local calling rate element was set equal to the LEC's local coin rate (a rate of \$.10-\$.25 per call, initially set by most LECs some 20 or more years ago). Effective October 7, 1997, the FCC deregulated the local coin rate. In most states, LECs then revised their tariffs to provide that the local call element of a local collect call may be set equal to the provider's deregulated local coin rate. But in some states, LECs maintained the existing caps on the local call element of local collect call rates at pre-

1997 regulated local coin rates. This inconsistency in LEC implementation contributes significantly to the inability of inmate service providers in many states to recover the costs of local collect calls, which are the main type of call made from city and county jails.

The Commission should clarify that the 1997 deregulation of local coin rates also applies to the local calling rate element of inmate collect calling, so that this rate element may be set at the same market-determined level as the deregulated local coin rate used at the service provider's public payphones. Therefore, where inmate telephone service providers offer local inmate service at a rate consisting of an operator surcharge plus a local call element, then, notwithstanding any inconsistent language in LEC tariffs, the inmate service provider may charge, for the local call element of the rate, an amount equal to the local coin calling rate that the inmate service provider is charging at its public payphones. If the inmate service provider does not provide public payphone service, then the inmate service provider may charge, for the local call element, an amount equal to the prevailing local coin calling rate at public payphones in the state where the inmate service provider is offering inmate service. Under this approach, the operator surcharge rate element of inmate collect calling services would remain capped at current regulated levels, and the local calling rate element also would be effectively capped – at the market-determined local coin rate.

### **Consistency with the Dial-Around Compensation Cases**

This approach would be consistent with the U.S. court of appeals decisions in *Illinois Pub. Telecomms. Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997) (“*IPTA*”) and *MCI Telecomms. Corp. v. FCC*, 143 F.3d 606 (D.C. Cir. 1998) (“*MCP*”). In those decisions, the court disapproved the FCC's earlier decisions in the payphone docket, in which the Commission set compensation for coinless “dial-around” long distance calls made from public payphones based on the rate level for local coin calls. In *IPTA*, the Commission set the rate of compensation to payphone service providers for dial-around calls equal to the market-based local coin rate, on the basis of a finding that the costs of the calls are similar. The court found, however, that “the record is replete with evidence that the costs of local coin and access code calls are not similar.” In *MCI*, the Commission set the dial-around rate by estimating the difference in costs between local coin and dial-around calls, and subtracting the difference from the market rate for local coin calls. The court found that the Commission had again failed to adequately explain the link between the market based local coin rate and the dial-around compensation rate.

The approach described here is easily distinguishable from those cases. First, the rate elements to be compared in this case are both local calling rates – not a mix of local and long distance rates. Therefore, the cost characteristics of the rate elements involved are

more similar than in the *IPTA* and *MCI* cases. For example, the same measured service rate and line charge are assessed on the service provider for both types of calls.

Second, in approximately 30 states, ILECs have already taken the step that the Commission would take here. Those ILECs have revised their tariffs, under the supervision of state public service commissions, to provide that providers may set the local calling rate element of local collect calls at the level of the market-based local coin rate. Therefore, the Commission would be following the precedent of 30 states that have already deemed the local coin rate to be an appropriate proxy for the local calling element of local collect rates. The Commission would be allowing service providers in the remaining states to use the same market-based approach approved for equivalent rates of other providers in 30 states – a procedure well within the bounds of the Commission’s ratemaking discretion.<sup>1</sup>

Third, the Commission need not claim that the costs underlying the two rates are the *same*, as it did in *IPTA*, in order to make the ruling discussed here. The ample cost data in the record clearly demonstrates that local collect inmate rates in the states in question are substantially – and in several cases, dramatically -- below costs today. The relatively minor upward rate adjustment proposed here would thus move inmate local collect rates closer to costs, but would not cause them to exceed costs. This is clearly an improvement over the status quo. Therefore, it is unnecessary for the Commission to make a vulnerable claim of cost equivalency as it did in *IPTA*.

Finally, the Commission would not be displacing states’ ability to regulate local collect call rates. ILEC tariffs would continue to govern the permissible operator surcharge element of the local collect rate, and state commissions would retain authority to address any abuses that might occur by, *e.g.*, requiring adjustments to a provider’s operator surcharge, or restructuring of the total rate, to ensure cost-based levels.

### **No Abuse in the 30 States Where Tried**

The question was also raised whether this approach is likely to lead providers to abuse their discretion by, *e.g.*, raising local coin rates at public payphones to unreasonable levels in order to justify excessive charges for local inmate collect calls. The 30 states where this approach has already been tried provide a laboratory for testing its implementation, and the Coalition is unaware of any abuse of the local calling element in those states. Further, after the staff raised this issue, the Coalition conducted a quick telephone survey of the state public service commissions in all 30 states where the local call element has been set at

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<sup>1</sup> See *e.g.*, *AT&T v. Business Telecom, Inc.*, EB-01-MD-001, FCC 01-01-185, May 30, 2001, ¶¶ 28-30 (rates charged by other carriers for comparable services are relevant to reasonableness of rates).

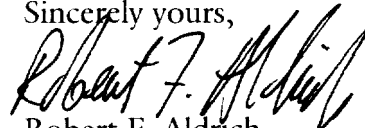
**Glenn Reynolds**

**June 29, 2001**

**Page 4**

the market determined coin rate. See Attachment. Twenty of the thirty states responded to the survey. The vast majority of the states reported that complaints about inmate service rates in general have not increased, but remained the same or decreased with two-thirds of the states reporting less than ten complaints over the past year. The states that tracked complaints by call type uniformly reported that the call type receiving the most complaints was intra-state long distance. The least number of complaints reported were on local calls.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich", written in a cursive style.

Robert F. Aldrich

RFA/nw

## **TODAY**

In the four years since the *Payphone Orders* independent ICS providers have struggled to compete in a number of states without the fair compensation on local calls to which they are entitled and without the "level playing field" promised by the Telecommunications Act.

*"Indecision and avoidance are not legitimate policies"*

**Michael Powell, Chairman  
Federal Communications Commission  
Before House Committee on Appropriations  
May 22, 2001**

- **Our issue is fair compensation on below cost local collect call rates in county jails, *not prisons*.**
- The majority of county jails are small. Some jails get no commission. Most get a low commission when compared with prison commissions.
- There are 29 states today with no rate caps on local collect calls or a market based coin rate for the local rate element of collect calls.
- **There is no evidence in the record of consumer abuse with local collect call rates or spiraling commissions on local collect calls in county jails.**

## NORTH CAROLINA LOCAL COLLECT CALL RATES

CAPPED AT THE TARIFFED RATE OF THE LOCAL TELEPHONE COMPANY  
OPERATOR SURCHARGE + LOCAL CALL ELEMENT

LEC	LOCAL COLLECT OPERATOR SURCHARGE	LOCAL CALL RATE ELEMENT	TOTAL RATE	PROVIDER OF INMATE PHONE SERVICE
Alltel	\$0.70	*\$0.25	\$0.95	No
BellSouth	\$0.80	*\$0.25	\$1.05	Quitting
Concord/CT Comm	\$0.70	\$0.35	\$1.05	No
Lexcom	\$0.68	*\$0.20	\$0.88	No
North State	\$0.68	*\$0.10	\$0.78	No
Sprint	\$0.65	*\$0.20	\$0.85	1 Facility
Verizon	\$0.70	*\$0.25	\$0.95	No
Independents	\$0.80	*\$0.25	\$1.05	No

North Carolina Average Rate: \$0.95

\* Local coin rate initially set by LECs over twenty years ago.

AVERAGE LOCAL COLLECT CALL RATE FOR ALL 50 STATES: \$2.13

REQUESTS TO THE LECS TO CHANGE THE LOCAL CALL ELEMENT HAVE BEEN DENIED.

# THE TELECOMMUNICATIONS ACT OF 1996

## INMATE CALLING SERVICES

### Specific Mandates of Section 276 of the 1996 Act.

- Section 276(a)(1) directed the Commission to "ensure that all payphone service providers are *fairly compensated for each and every completed intrastate and interstate call* using their payphone."
- Section 276 also required the Commission to *establish nonstructural safeguards to end the BOCs' historical discrimination against independent Inmate Calling Service (ICS) providers* in favor of their own ICS operations.

### For further information contact:

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Inmate Calling Service Providers Coalition  
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## **BACKGROUND**

- The Commission failed to adequately address ICS in the payphone orders.
- The Coalition filed a petition for review of the Commission's rulings with **the** United States Court of Appeals for the District of Columbia Circuit.
- After the filing of the Coalition's initial brief, the Commission sought a **voluntary** remand of the case. The Commission acknowledged that it had not adequately addressed the issues raised by the Coalition and asked the court to return the proceeding to the Commission so that it could provide further analysis, promising that it would act expeditiously. The court granted the Commission's request for remand on January 30, 1998.
- Over the past four years members of the Coalition have had dozens of **meeting** at the FCC seeking the fair compensation and adequate safeguards for fair competition promised by the Telecommunications Act. During this time period we have regrettably **had** to educate six different sets of Staff in attempting to get movement on our issues.

## 1997 INITIATIVES AT FCC

Date	Initiative	FCC Participants	Industry Partitipants
March 19	Meeting-Inmate Issues	Mary Beth Richards	Townsend, Kramer, Aldrich
March 19	Meeting-Inmate Issues	Kaufman	Townsend, Aldrich
March 19	Meeting-Inmate Issues	CCB Staff	Townsend, Aldrich
March 20	Meeting-NST BellSouth/CEI	Brent Olson Radhika Karmaka	John Beach, Townsend, Aldrich
March 20	Meeting-NST BellAtlantic/CEI	Brent Olson Radhika Karmaka	Allen Kohler, Townsend, Aldrich
March 20	Meeting-NST	John Muleta Michael Carowitz	John Beach, Townsend, Aldrich
April 8	Meeting CEI/CAM	Accounting & Audits Division	John O'Keefe, Aldrich
May 6	Meeting - CEI/CAM	Jose Rodriguez & Accounting Staff	Aldrich
June 4	Meeting - NST	John Muleta	Townsend, John Beach
July 29	Meeting-Inmate Issues	<b>1st Team</b> Mary Beth Richards Michael Carowitz Glenn Reynolds	Townsend, Kramer, Aldrich

## 1998 INITIATIVES AT FCC

Date	Initiative	FCC Participants	Industry Partitipants
February 25	Meeting - Inmate Remand	Mary Beth Richards	Kramer
April 21	Meeting - NST	Dan Abeta Calvin Howell	Trathen Townsend, Aldrich
April 21	Meeting - Inmate Remand	Larry Strickland Glenn Reynolds	Townsend, Kramer
May 14	Meeting - Inmate Remand	<b>2nd Team</b> Rose Crellen Jennifer Myers	Townsend, Aldrich, Farber
May 14	Meeting - NST	Pat Donovan Dan Abeta Calvin Howell Raja Kannan	Trathen Townsend, Aldrich
May 28	Meeting - Inmate Remand	Jennifer Myers Rose Crellen Craig Stroup	Townsend, Farber

<b>August 19</b>	Meeting - Inmate Remand	<b>3rd Team</b> Anna Gomez Judy Albert	Townsend, Kramer
<b>August 19</b>	Meeting - NST	Dan Abeta Calvin Howell Raja Kannan	Trathen Townsend, Aldrich
<b>November 5</b>	Meeting - NST	<b>4th Team</b> Kris Montieth Raja Kannan Calvin Howell	Trathen Townsend, Aldrich
<b>November 5</b>	Meeting - Inmate Remand	Kris Montieth Calvin Howell	Townsend, Aldrich

### 1999 INITIATIVES AT FCC

Date	Initiative	FCC Participants	Industry Partitipants
<b>February 24</b>	Meeting - Inmate Remand	Kris Montieth & Staff	Townsend, Kramer
<b>March 18</b>	Conference Call - Inmate Remand	Kris Montieth & Staff	Kramer
<b>April 28</b>	Meeting - NST	Jane Jackson Full Staff	Industry Leaders, State Attorneys, DSMO
<b>May 6</b>	Public Notice - Inmate Remand		
<b>June</b>	Inmate Remand Comments		
<b>June 29</b>	Meeting - NST - New Jersey	Lynne Milne, Calvin Howell, Jon Stover, Rene Terry, Raja Kannan	Dennis Lincoln, Beach, Wood, Townsend, Aldrich
<b>July 21</b>	Inmate Remand Reply Comments		
<b>October 13</b>	Meeting - Inmate Remand	<b>5th Team</b> Lynne Milne, Jon Stover, Renee Perry, Calvin Howell, Raja Kannan	Townsend, Aldrich, Farber
<b>November 17</b>	Meeting - Inmate Remand	Lynne Milne, Jon Stover, Renee Perry, Calvin Howell, Raja Kannan	Townsend, Aldrich

### 2000 INITIATIVES AT FCC

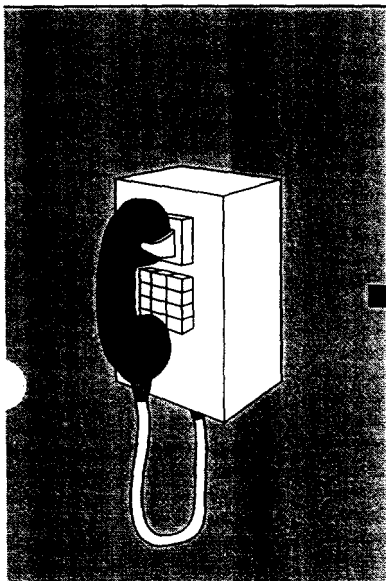
Date	Initiative	FCC Participants	Industry Partitipants
<b>January 20</b>	Meeting - NST	Jon Stover, Lynne Milne, Calvin Howell, Raja Kannan	Trathen, Townsend, Aldrich
<b>February 2</b>	Meeting - Inmate Remand	Jon Stover, Lynne Milne, Calvin Howell, Raja Kannan	Aldrich, Townsend
<b>April 5</b>	Meeting - Inmate Remand	Jon Stover, Lynne Milne, Calvin Howell, Raja Kannan, Adam Candeub	Aldrich, Townsend
<b>April 13</b>	Meeting - NST	Jon Stover, Lynne Milne, Calvin Howell, Raja Kannan, Lynwood Smith, Adam Candeub, Al Barma	Trathen, Wood, Townsend, Aldrich

April 13	Meeting - Inmate Remand	Jon Stover, Lynne Milne, Calvin Howell, Raja Kannan, Adam Candeub, Al Barma, Lynwood Smith	Townsend, Aldrich, Farber
April 18	Meeting - Inmate Remand	Lynne Milne, Calvin Howell, Raja Kannan, Adam Candeub, Al Barma, Lynwood Smith, Tamara Priess	Townsend, Aldrich
May 8	Meeting - Inmate Remand	Yog Varma, Tamara Preiss, Deena Shetler	Townsend, Aldrich
May 8	Meeting - Inmate Remand	Jordan Goldstein	Townsend, Aldrich
May 10	Meeting - NST - Sprint Rates	Jon Stover, Calvin Howell, Raj Kannan, Al Barma, Lenworth Smith, Anna Janckson-Curtis	Townsend, Trathen, Wood
May 10	Meeting - Inmate Remand	Dorothy Attwood	Townsend, Aldrich
June 21	Meeting - Inmate Remand	<b>6th Team</b> Jay Atkinson Adam Candeub	Townsend, Aldrich
June 22	Meeting - NST	Jane Jackson Lenworth Smith Lynne Milne Florence Setzer	Trathen, Aldrich
June 27	Meeting - Inmate Remand	Dorothy Attwood	Townsend, Aldrich
July 5	Meeting - Inmate Remand	Tamara Preiss Adam Candeub	Townsend, Aldrich
October 11	Meeting - Inmate Remand	Jay Atkinson Adam Candeub	Townsend, Aldrich
December 12	Meeting - NST and Dial Around	Jordan Goldstein LA for Commissioner Ness	APCC Leaders, Allard, Kramer
December 12	"	Commissioner Furchtgott-Roth	APCC Leaders, Allard, Kramer
December 12	"	Commissioner Powell LA Kyle Dixon	APCC Leaders, Allard, Kramer, Ted Weerts
December 12	"	Dorothy Attwood and Staff	APCC Leaders, Kramer, Aldrich
December 13	Meeting - NST and Dial Around	Chairman Kennard LA Anna Gomez	APCC Leaders, Allard Kramer, Ted Weerts
December 13	"	Deena Shelter LA for Commissioner Tristani	APCC Leaders, Kramer, Ted Weerts
December 13	Meeting - Inmate Remand	Anna Gomez LA Chairman Kennard	Townsend, Aldrich
December 13	Meeting - Inmate Remand	Dorothy Attwood and Staff	Townsend, Aldrich,
December 20	Meeting - Inmate Families' Concerns	Anna Gomez LA Chairman Kennard	Townsend, Aldrich, Michael Hamden, Elizabeth Alexander
December 21	Meeting - Inmate Families' Concerns	Dorothy Attwood and Staff	Townsend, Aldrich, Michael Hamden, Elizabeth Alexander

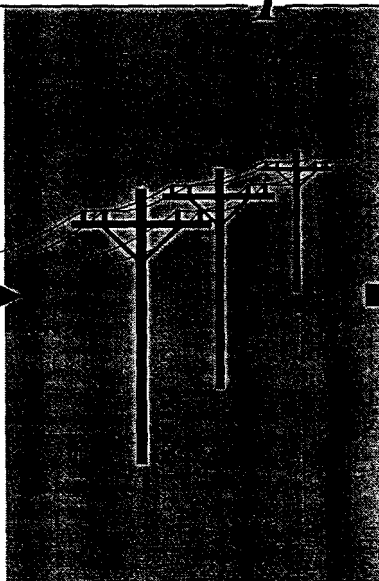
# INMATE CALLING SYSTEMS

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*The Perception...*



**Inmate Phone**

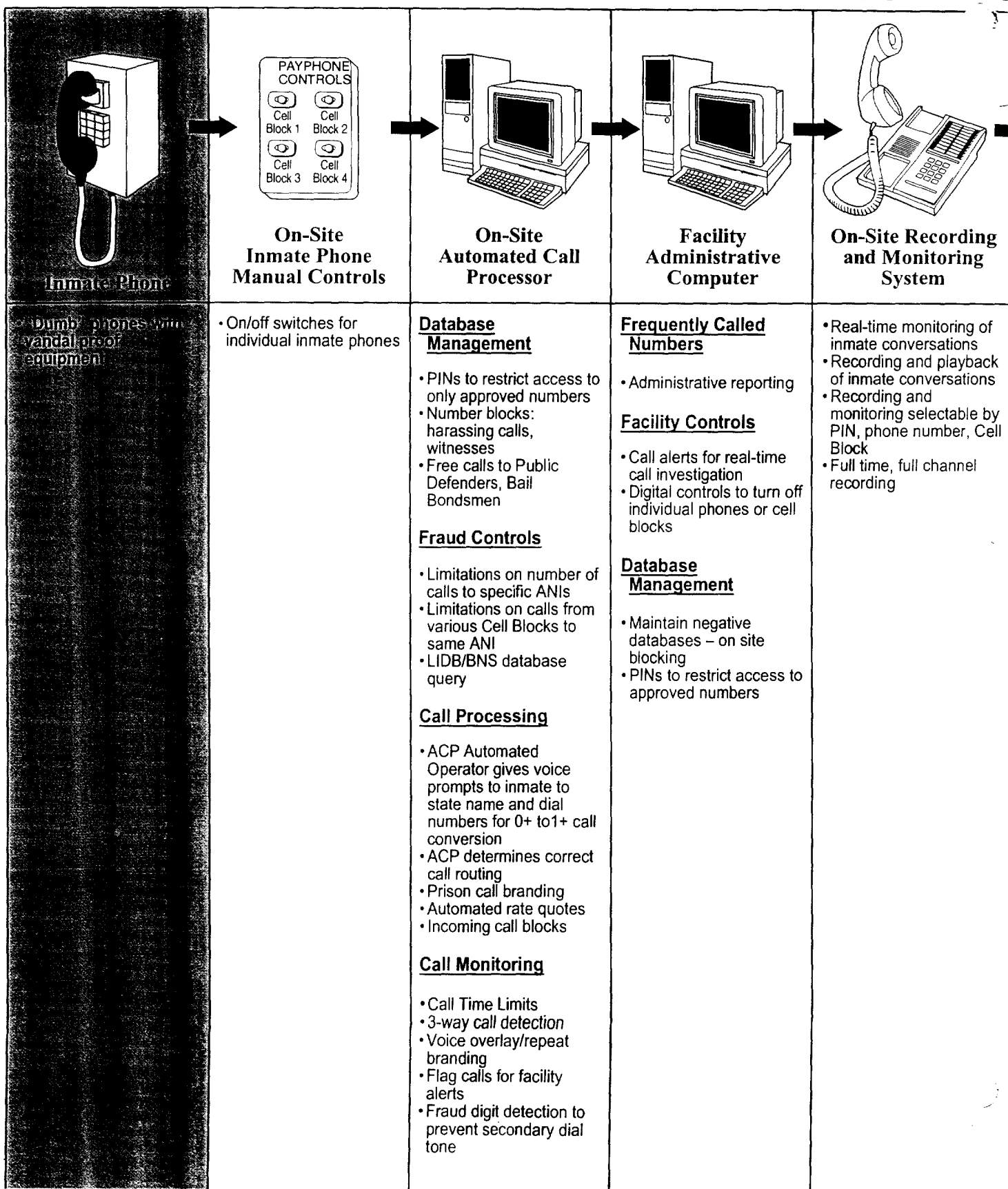


**Local Exchange Company**

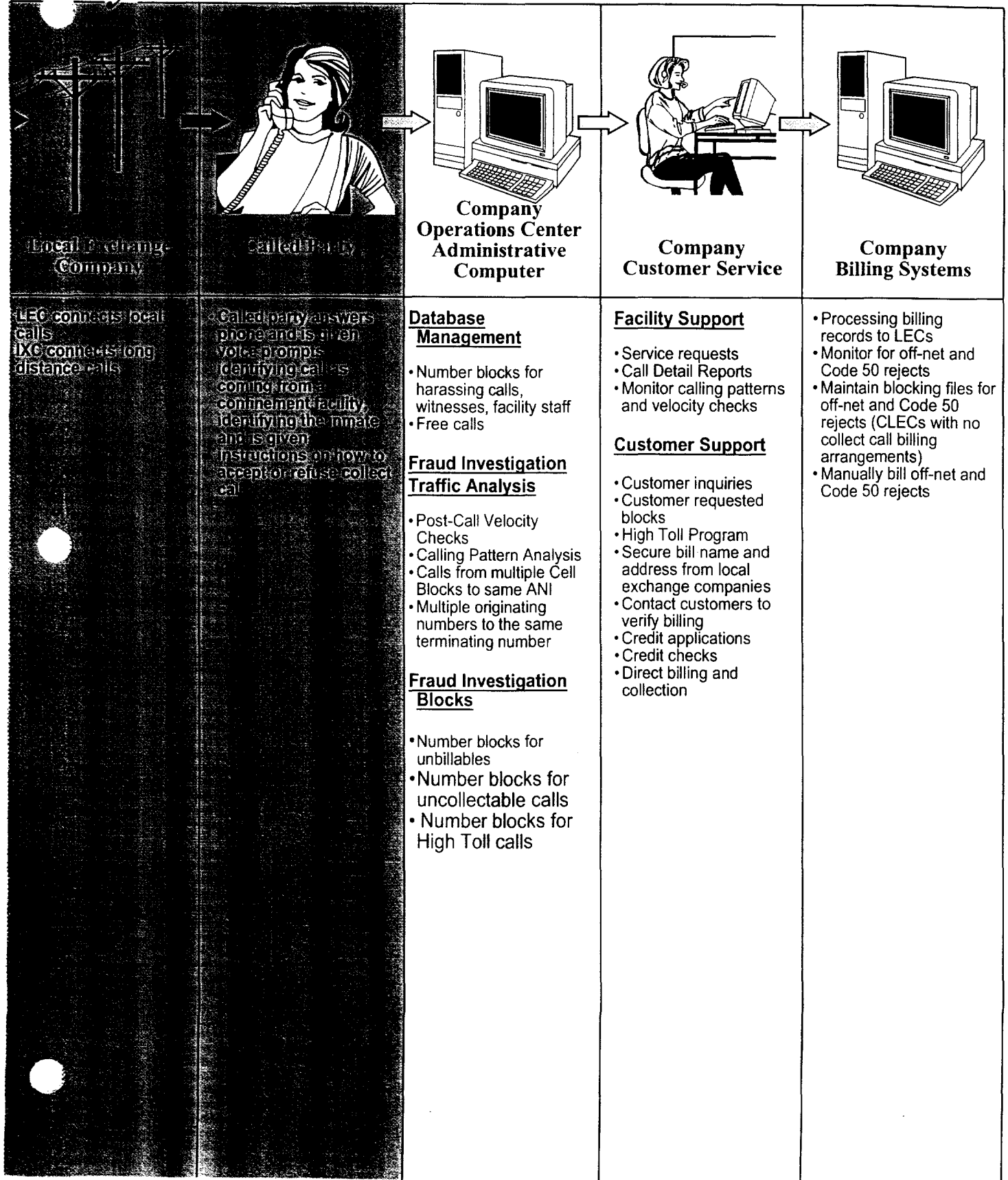


**Called Party**

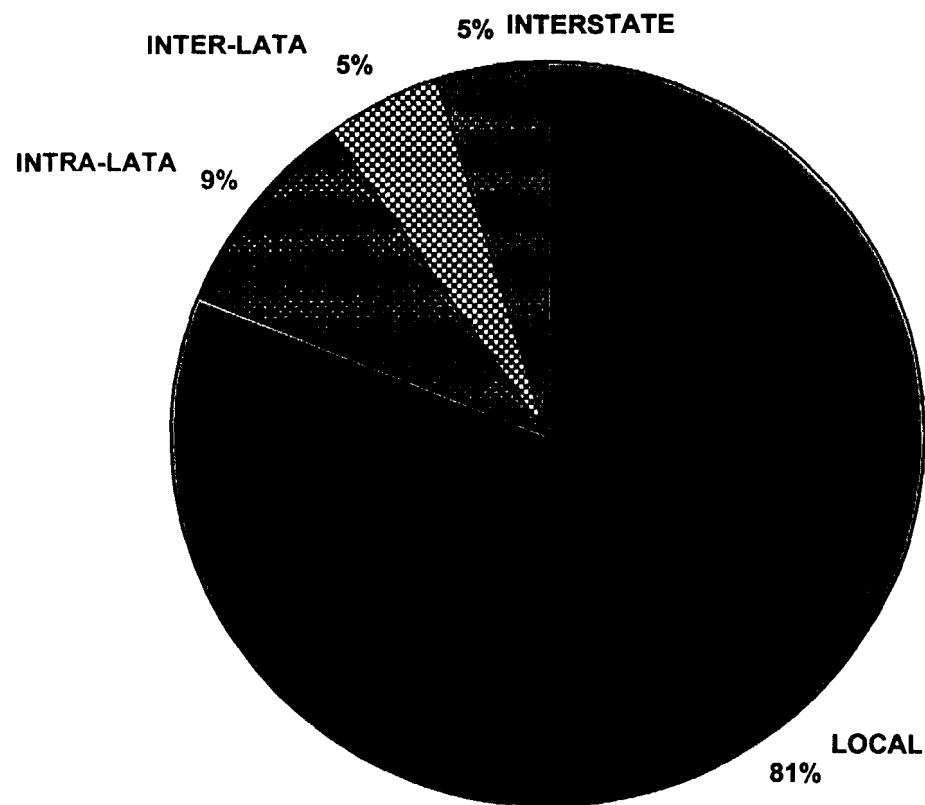
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**COUNTY JAIL  
TYPE OF CALL DISTRIBUTION  
NC, SC, TN**



LOCAL INTRA-LATA INTER-LATA INTERSTATE

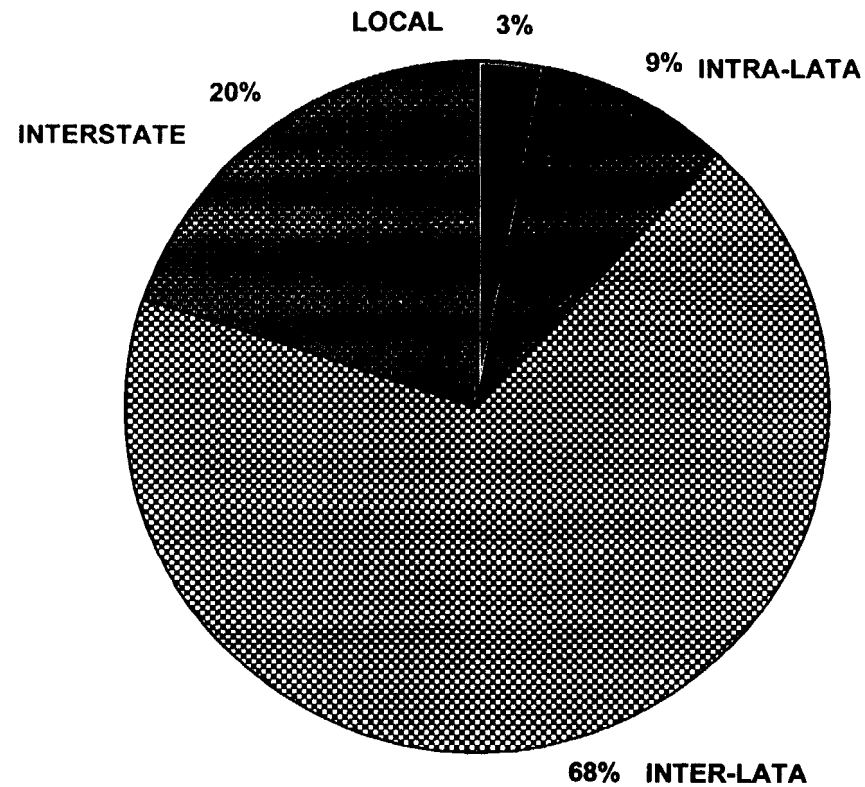


# Rates for a 12 Minute Inmate Local Collect Call and State-Imposed Rate Ceilings

25-Jun-01

State	RBOC	Applicable Local Call Rate			Collect Call Surchage	Total Rate	Rate Cap?	Rate Cap Details
		Init. Min.	Add'l Min.	Notes				
1 Illinois	Ameritech	\$ 0.24	\$ 0.21	Capped by PUC	\$ 2.81	\$ 5.36	Yes	PUC rate cap
2 Texas	SBC	\$ 0.10	\$ 0.08	Capped by PUC	\$ 3.75	\$ 4.73	Yes	PUC rate cap
3 Nebraska	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 3.75	\$ 4.25	No	
4 Wyoming	Qwest	\$ 0.35	N/A	Provider market based coin rate	\$ 3.75	\$ 4.10	No	
5 Indiana	Ameritech	\$ 0.35	N/A	Provider market based coin rate	\$ 3.00	\$ 3.35	No	
6 Wisconsin	Ameritech	\$ 0.35	N/A	Provider market based coin rate	\$ 3.00	\$ 3.35	Yes	Capped at twice the AT&T or RBOC rate
7 Colorado	Qwest	\$ 0.50	See note	PUC cap: \$.25 per 5 min.	\$ 1.85	\$ 2.85	Yes	PUC rate cap
8 Rhode Island	Verizon	\$ 0.35	N/A	Provider market based coin rate	\$ 2.50	\$ 2.85	No	
9 Arizona	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 2.30	\$ 2.80	Yes	Capped at LEC tariff rate
10 Washington	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 2.30	\$ 2.80	No	
11 North Dakota	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 2.25	\$ 2.75	No	
12 Mississippi	Bell South	\$ 0.35	N/A	Capped at RBOC rate	\$ 2.25	\$ 2.60	Yes	Capped at RBOC tariff rate
13 South Dakota	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 2.10	\$ 2.60	No	
14 Utah	Qwest	\$ 0.35	N/A	Provider market based coin rate	\$ 2.25	\$ 2.60	No	
15 Georgia	Bell South	\$ 0.35	N/A	Provider market based coin rate	\$ 2.20	\$ 2.55	No	
16 Montana	Qwest	\$ 0.50	N/A	Capped by PUC	\$ 2.00	\$ 2.50	Yes	Capped at LEC average + 50%
17 Michigan	Ameritech	\$ 0.35	N/A	Provider market based coin rate	\$ 2.05	\$ 2.40	No	
18 Kansas	SBC	\$ 0.35	N/A	Provider market based coin rate	\$ 2.00	\$ 2.35	No	
19 New Mexico	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 1.80	\$ 2.30	No	
20 Connecticut	SBC	\$ 0.35	N/A	Provider market based coin rate	\$ 1.75	\$ 2.10	No	
21 Florida	Bell South	\$ 0.35	N/A	Provider market based coin rate	\$ 1.75	\$ 2.10	Yes	PUC rate cap
22 Vermont	Verizon	\$ 0.35	N/A	Capped at LEC rate	\$ 1.65	\$ 2.00	Yes	Capped at LEC tariff rate
23 Oklahoma	SBC	\$ 0.25	N/A	Capped at LEC rate	\$ 1.65	\$ 1.90	Yes	Capped max. rate of LEC or IXC
24 Kentucky	Bell South	\$ 0.35	N/A	Capped by PUC	\$ 1.50	\$ 1.85	Yes	PUC rate cap
25 Idaho	Qwest	\$ 0.50	N/A	Provider market based coin rate	\$ 1.30	\$ 1.80	No	
26 Minnesota	Qwest	\$ 0.50	N/A	Capped at RBOC rate	\$ 1.30	\$ 1.80	Yes	Capped at RBOC tariff rate
27 New York	Verizon	\$ 0.25	\$ 0.05	Capped at RBOC rate	\$ 1.30	\$ 1.80	Yes	Capped at AT&T or LEC rates, whichever is higher
28 Iowa	Qwest	\$ 0.50	N/A	Capped at RBOC rate	\$ 1.25	\$ 1.75	Yes	Capped at RBOC tariff rate
29 Nevada	SBC	\$ 0.14	\$ 0.05	Provider market based coin rate	\$ 1.00	\$ 1.69	Yes	PUC rate cap
30 Louisiana	Bell South	\$ 0.35	See note	PUC cap: \$.35 per 5 min.	\$ 0.63	\$ 1.68	Yes	PUC rate cap
31 New Jersey	Verizon	\$ 0.09	\$ 0.03	Capped by PUC	\$ 1.28	\$ 1.68	Yes	Capped at RBOC tariff rate
32 Maine	Verizon	\$ 0.35	N/A	Provider market based coin rate	\$ 1.30	\$ 1.65	No	
33 Oregon	Qwest	\$ 0.35	N/A	Provider market based coin rate	\$ 1.30	\$ 1.65	No	
34 Pennsylvania	Verizon	\$ 0.35	N/A	Capped at LEC rate	\$ 1.30	\$ 1.65	Yes	Capped max. rate of LEC or IXC
35 Alabama	Bell South	\$ 0.35	N/A	Provider market based coin rate	\$ 1.25	\$ 1.60	Yes	Capped at LEC tariff rate
36 Hawaii	Verizon	\$ 0.35	N/A	Provider market based coin rate	\$ 1.20	\$ 1.55	No	
37 Arkansas	SBC	\$ 0.35	N/A	Provider market based coin rate	\$ 1.10	\$ 1.45	No	
38 Delaware	Verizon	\$ 0.35	N/A	Provider market based coin rate	\$ 1.10	\$ 1.45	No	
39 Ohio	Ameritech	\$ 0.35	N/A	Provider market based coin rate	\$ 1.10	\$ 1.45	Yes	Capped at LEC tariff rate
40 New Hampshire	Verizon	\$ 0.35	N/A	Provider market based coin rate	\$ 1.05	\$ 1.40	No	
41 California	SBC	\$ 0.35	N/A	Provider market based coin rate	\$ 0.95	\$ 1.30	Yes	Capped at LEC + \$.30 pay telephone surcharge
42 Massachusetts	Verizon	\$ 0.35	N/A	Capped at RBOC rate	\$ 0.86	\$ 1.21	Yes	Capped at RBOC tariff rate
43 Missouri	SBC	\$ 0.35	N/A	Provider market based coin rate	\$ 0.75	\$ 1.10	No	
44 North Carolina	Bell South	\$ 0.25	N/A	Capped at LEC rate	\$ 0.80	\$ 1.05	Yes	Capped at LEC tariff rate
45 Virginia	Verizon	\$ 0.25	N/A	LEC rate	\$ 0.75	\$ 1.00	No	
46 Maryland	Verizon	\$ 0.35	N/A	Capped at RBOC rate	\$ 0.60	\$ 0.95	Yes	Capped at RBOC tariff rate
47 West Virginia	Verizon	\$ 0.35	N/A	Provider market based coin rate	\$ 0.60	\$ 0.95	Yes	Capped at LEC tariff rate
48 Tennessee	Bell South	\$ 0.35	N/A	Capped at LEC rate	\$ 0.50	\$ 0.85	Yes	Capped at RBOC tariff rate
49 South Carolina	Bell South	\$ 0.10	N/A	Capped at LEC rate	\$ 0.70	\$ 0.80	Yes	Capped at RBOC tariff rate
50 Alaska		N/A	N/A		N/A	N/A	N/A	N/A
National Average					\$	2.13		

# STATE PRISONS TYPE OF CALL AVERAGE DISTRIBUTION

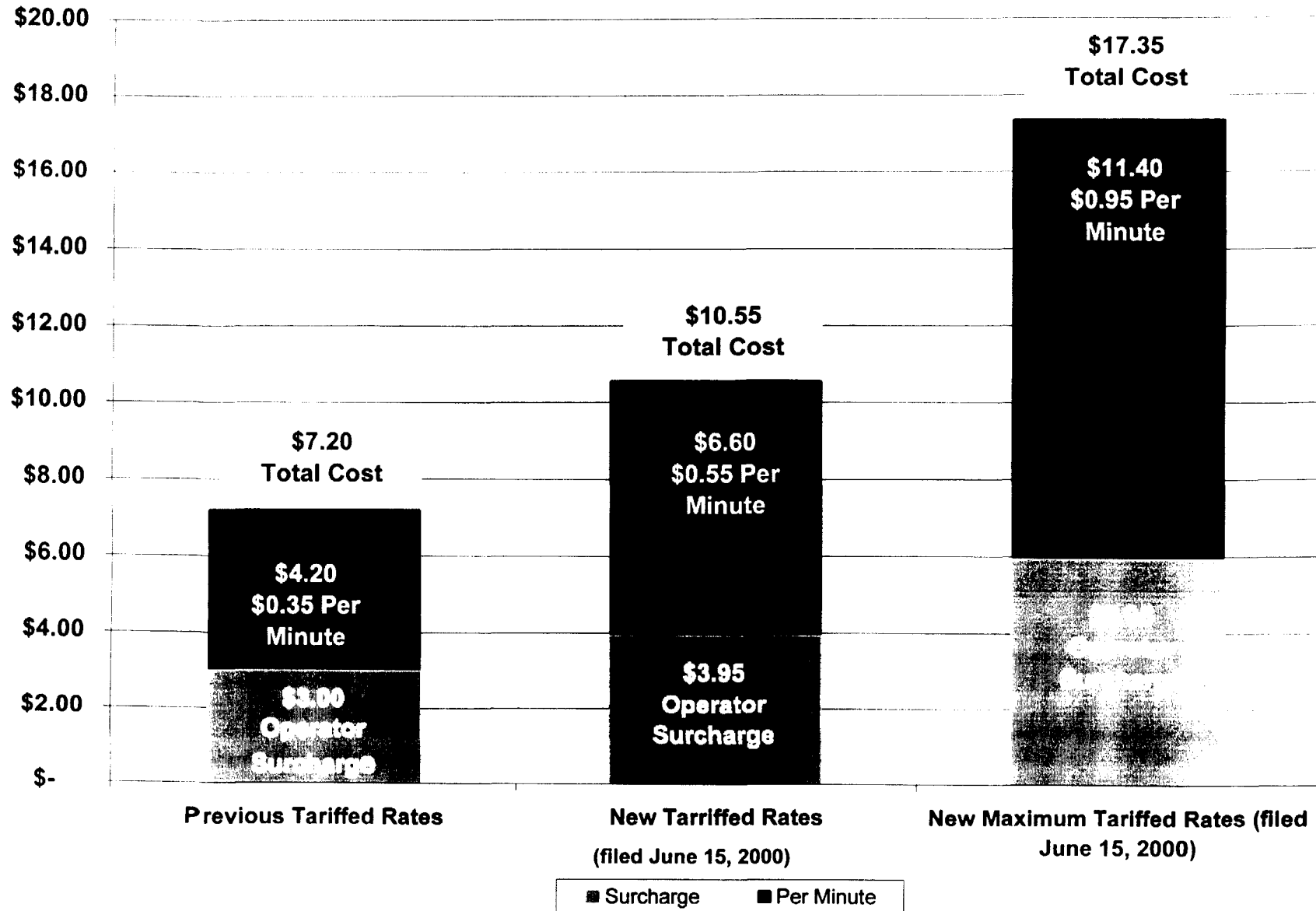


LOCAL INTRA-LATA INTER-LATA INTERSTATE

Source: Coalition

# SOUTH CAROLINA AT&T PRISON-COLLECT RATES

New AT&T Tariff Filing, June 15 2000  
12-Minute Long Distance Collect Call



## **GOAL FAIR COMPENSATION ON LOCAL CALLS**

<u>FCC TEAM</u>	<u>DISCUSSIONS WITH STAFF</u>
1997 - Team 1	<p>Deregulate the state imposed caps</p> <p>If we help you solve your below cost rate problem on local calls, will you help us bring down long distance rates? <i>FCC Staff</i></p> <p>"Yes" coalition response.</p>
1998 - Team 1	An inmate service fee of \$.90 to be added to below cost local collect call rates in certain states
1998 - January	<u><b>VOLUNTARY REMAND</b></u>
1998 - Teams 2, 3, 4	How to apply \$.90 fairly
1999 - Team 5	Bottoms-up cost based analysis to justify new rate for local collect calls
2000 - Team 5	<p>A provider with below cost local collect call rates in a certain state would file tariffs for new rate and provide cost justification with bottoms-up cost based analysis.</p> <p><b><i>Coalition members agree to support applying same cost justification model to long distance call rates.</i></b></p> <p>Net effect to consumers. Local collect call rates in 15± states would increase \$.25 - \$1.00 toward nationwide average rate of \$2.13 for 12 minute local collect call.</p> <p>Long distance rates for both intra-state and interstate rates would fall significantly. For example, inmate collect call inter-state rate of \$12.23 (\$3.95 surcharge + \$.69 per minute) would fall to \$5.79 even including a commission to the prison.</p>
2000 - Team 6	Explained competitive differences between county jails with 80+% local calls averaging less than \$2.00 per call and prisons with 97% long distance calls averaging \$8.00 to \$12.00. Most county jails are served by independent providers. Most prisons are served by major IXCs and BOCs.

## An Approach to Fair Compensation and Reasonable Rates for Inmate Service

Pursuant to 47 U.S.C. § 276, the FCC must ensure that providers of telephone service to inmates of confinement facilities are fairly compensated for each call made from their phones. At the same time, under 47 U.S.C. § 201, inmates of confinement facilities and their families are entitled to reasonable rates. In the pending inmate service remand, the Commission has an opportunity to promote both objectives: (1) *fair compensation* and (2) *reasonable rates* for inmates and their families.

### I. The Problem: High Long Distance Rates in Most States and Low Local Rate Ceilings in Some States

- ◆ *Long distance rates* for service to inmates in most states are very high. The FCC does not currently regulate rates for interstate long distance calls, and in many states there is no active regulation of long distance rates.
- ◆ In the proceeding immediately before the FCC, CC Docket No. 96-128, which deals with Section 276, inmate service providers are requesting fair compensation for service to jails in those states where *artificially low state rate ceilings* preclude recovery of the full cost of *local* collect calls.
  - For example, Tennessee imposes a rate ceiling of \$.85, which does not cover the cost of a local collect call from confinement facilities.
  - Local calls make up over 80% of the calls from city and county jails.
- ◆ The two problems are related: in states with low local call rate ceilings, providers of service to jails cannot recover their costs without charging high long distance rates.
- ◆ Requiring providers to charge below-cost rates on *local* calls and thereby forcing them to charge rates above cost on *interstate* calls conflicts with the FCC's recent finding that "it would be an undue burden on interstate commerce to have costs of providing intrastate service to prison inmates cross-subsidized by interstate service ratepayers." *Billed Party Preference for InterLATA 0+ Calls*, CC Docket No. 92-

## II. Addressing the Problem in Docket No. 96-128

In Docket No. 96-128, the Commission can simultaneously address both the local rate ceiling problem and a potential solution to the broader problem of excessive long distance rates.

- ◆ The Commission should rule that, pursuant to Section 276, it will authorize an inmate service providers to exceed a particular state's *local* collect call rate ceiling if the inmate service provider submits cost data showing that the individual provider's per-call costs exceed the rate ceiling in a particular state.
- ◆ To ensure that the provider's rates for *long distance* calls are also fair to inmates and their families, the Commission should require the service provider, as a condition of being allowed to exceed the *local* call rate ceiling in a particular state, to commit to charging cost-based rates for all *other* calls – local, intraLATA, and interLATA (intrastate and interstate) – from facilities served in that state.
- ◆ While the Commission does not directly regulate long distance rates, the Commission may require inmate service providers in this proceeding to develop cost-based rates as a condition of receiving fair compensation for local calls.
- ◆ A provider would demonstrate its costs for local, intraLATA, and interLATA calls, and submit proposed rates for each type of call.
- ◆ A provider's per-call costs for each type of call would be developed, including the following cost categories:
  - line charge
  - usage charges
  - validation
  - maintenance and repairs
  - equipment depreciation
  - overhead

- return
  - commission payments to facilities
  - unbillables/uncollectables
- 
- ◆ The provider would use consistent methodologies to develop costs for each type of call.
  
  - ◆ To limit commission costs, the FCC could require that commission payments to facilities must not exceed a “range of reasonableness” determined by the FCC based on appropriate factors.